

October 26, 2005

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Hon. Frederick J. Scullin, Jr., Chief Judge
United States District Court
P.O. Box 7255
100 South Clinton Street
Syracuse, New York 13261

Re: Jana-Rock Construction, Inc. v.
City of Syracuse
Civil Action No.: 05-CV-1191
Our File: 25719-16455

Dear Judge Scullin:

Before sending this letter to you, I have reviewed the content of this letter with James P. McGinty, Esq., counsel for the City of Syracuse. There are currently pending before you the plaintiff's motion for default judgment and the City's motions to vacate the entry of default and to dismiss. The motions were originally returnable before you on November 11 and 25, respectively. Thereafter, the motions were consolidated for a return on November 11, 2005.

Jana-Rock has agreed to withdraw its motion for entry of a default judgment. The City has agreed to withdraw its motions to vacate the entry of default and to dismiss. As to the motion to dismiss, withdrawal is without prejudice. Jana-Rock will serve and file an amended complaint. With the Court's permission, the City will then have thirty days to answer or move against the amended complaint. This should, for the time being, resolve all issues between the parties.


Respectfully,

MENTER, RUDIN & TRIVELPIECE, P.C.


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VJK/ead

SO ORDERED


FREDERICK J. SCULLIN, JR.
U.S. DISTRICT JUDGE

10/27/05

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